

February 13, 2022

Additional Authorities

Background:

In support of efforts to address illegal blockades Transport Canada has identified some additional actions that might be taken under existing authorities (Part 1) and authorities that could be secured under the Emergencies Act (Part 2).

In both instances, effective implementation of most of these measures requires enforcement efforts by key partners (local law enforcement in particular).

Part 1: Additional actions under TC Authorities

- Enhanced Preparedness and Response
 - Through Safety / Security Management System regulations –compel (safety lens under authorities of RSA-CSA-AA or under Section 47 of CTA) operators of Critical Infrastructure (ie. Ports, Ferry Terminals, Airports, Railways) to **update safety and security plans and measures in light of this new threat**
 - Rationale: Generally speaking, SMS requirements require operators to ID, assess and mitigate emerging threats and hazards to their safe and secure operations.
 - Measures to include: increased monitoring; info / intel sharing with police of local jurisdiction, TC and other infrastructure operators; development of measures to ensure the rapid deployment of additional policing and security services if required; and, enhanced access control measures
 - In support, TC to enhance information sharing with CI Operators (e.g. regular intel sharing calls as done for rail blockades)
 - **Increase the Aviation Security level** (Regulatory instrument TBD):
 - Rationale: Aerodrome operators have pre-identified a menu of safeguards for different AVSEC levels which can be triggered if the AVSEC level is raised above level 1.
 - Measures to include: identification of additional safeguards, engagement with/notification to security stakeholders, implementation of safeguards.
 - In support, TC to work with operators of aerodromes to determine additional safeguards.
 - Use the AA IO/Emergency Direction to **compel aerodrome operators to increase physical** security presence or have Minister of Transport request assistance from the MPS or MND to provide support.
 - **Increase MARSEC levels to further restrict access** to the ports and marine / ferry facilities but not necessarily the approaches. In the case of a blockade, the higher MARSEC levels would offer additional protection that protesters do not enter the marine area.
- Access Restrictions:
 - **Use AA IO/Emergency Direction to limit vehicle access** to 89 Designated Airports to only those with a defined purpose for being at the airport (i.e. drop off or pick up someone) or to limit access to the Air Terminal Building to ticketed passengers and authorized personnel.

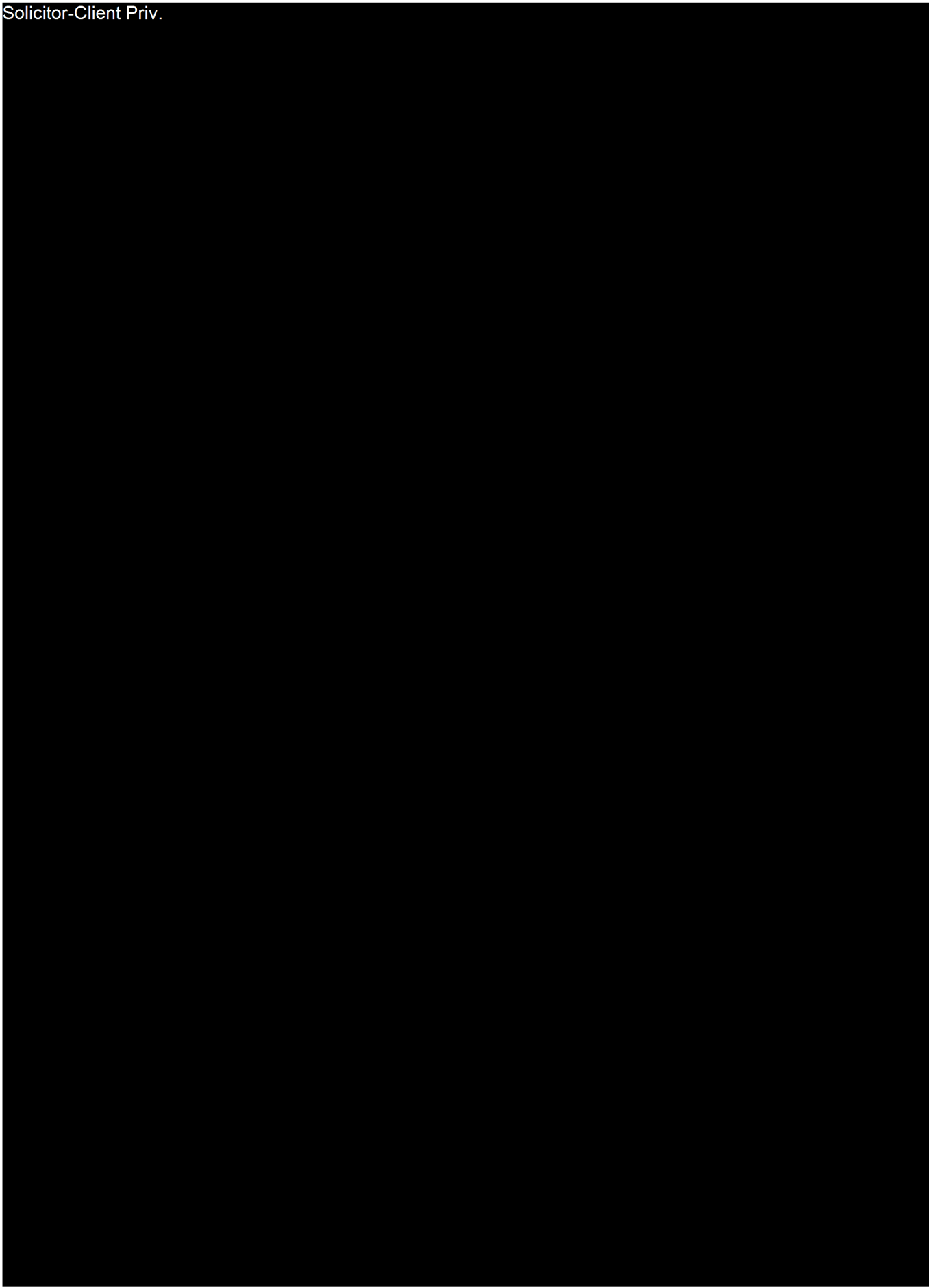
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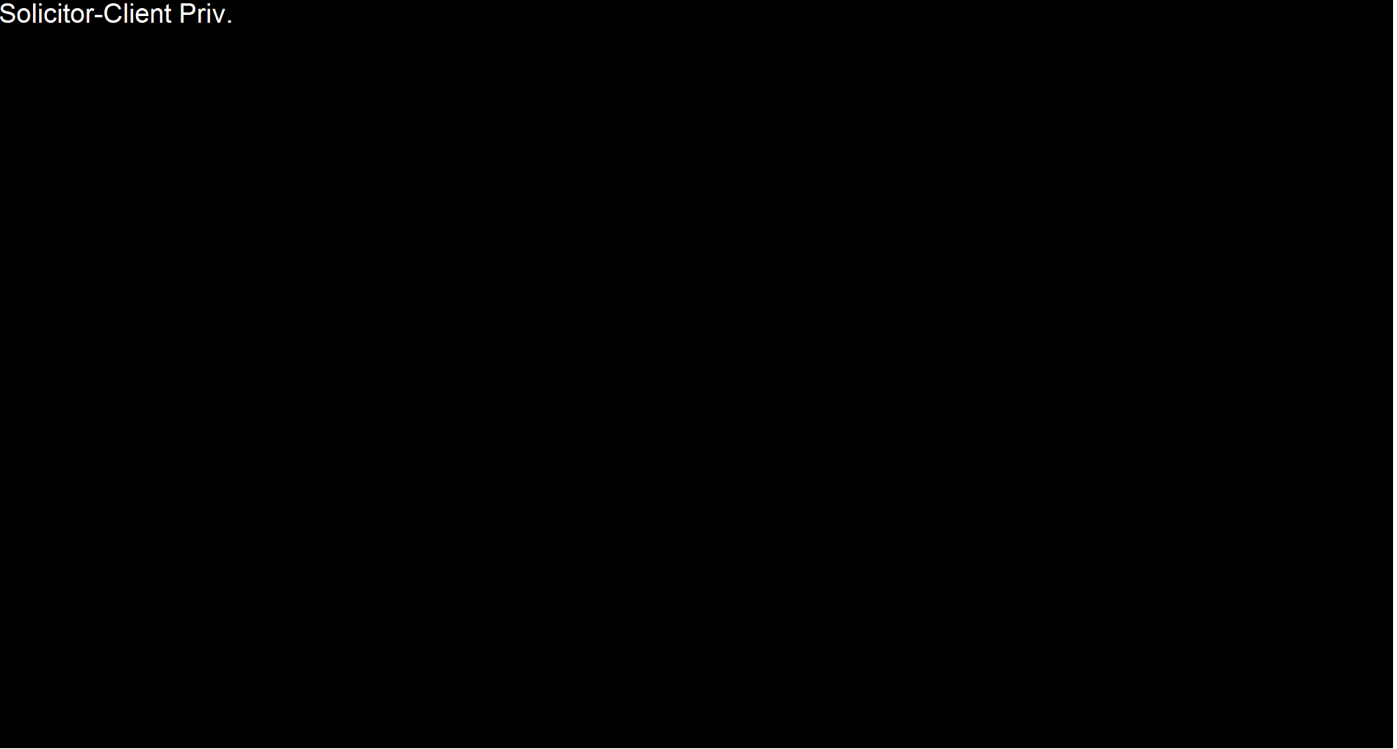
- Rationale: Large protests could become a vector to conceal or introduce prohibited items in the airport environment, vehicles could carry out acts of unlawful interference against civil aviation or impede access of first responders (e.g. fire and ambulance services)
 - Amp of \$5K for individuals or \$25K for corporations.
- Upon request, use of **Aeronautics Act authorities to create restricted areas** (NOTAMS) over critical infrastructure and protests (already being done)
- **Railway Safety Act (RSA) includes prohibitions from anyone entering onto land** on which a line work is situated (trespassing – s. 26.1) and from road users blocking railway crossings (obligation to give way – s. 26.2) – can be enforced by way of prosecution or tickets under *Contraventions Act* (note: tickets can be issued by police, including railway constables).
- RSA Ministerial Order (s. 32.01) can be used to require a railway company, road authority or municipality to stop any activity that might constitute a threat, follow procedures or take corrective measures specified in the order, where the Minister believes it to be necessary in the interest of safe railway operations
- **Use Marine Security authorities to create restricted areas around marine** critical infrastructure (e.g. Ports, Bridges, Ferry Terminals) and to direct Vessels
 - The Minister of Transport has broad authorities to direct a vessel that may be a security threat (Refer MTSA s 16)
 - The Minister of Transport can require or authorize a port or marine facility / ferry facility operator to carry out the security measures (Refer MTSA s 7)
 - Authorities under the Marine Transportation Security Act for land-based threats are limited to ports or marine facilities / ferry terminal operators and specific to designed areas. (MTSA s 4) – so limited applicability to road approaches
 - Should a waterside blockade present a risk to navigation safety, interim order provisions (10.1 under the CSA 2001), could also be used to enforce against the blockade
- Consequences
 - **Revoke the FAST Card** for those drivers involved in illegal activities – impact on ability to carry Dangerous Goods in the U.S. and expedited entry into the U.S. – CBSA action
- Enforcement
 - TC to pursue rigorous enforcement of regulatory violations (already being done) and provide support to local law enforcement (e.g. TDG Inspectors)
 - Delegation of additional enforcement powers to Police of Local Jurisdiction

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